

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Robert J. and Susan L. Poirier)
Dist. 1, Map 51P, Group D, Control Map 51P,) Cumberland County
Parcel 1.00, S.I. 000)
Residential Property)
Tax Year 2007)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$23,600	\$262,800	\$286,400	\$71,600

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 5, 2007 in Crossville, Tennessee. In attendance at the hearing were Robert and Susan Poirier, the appellants, Cumberland County Property Assessor's representative Mary Cox and Fred Wilson, an appraiser with the Division of Property Assessments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 1844 Sunset Ridge Drive in Crossville, Tennessee. The taxpayers purchased subject property on March 30, 2006 for \$231,000.

The taxpayers contended that subject property should be valued at \$225,000. In support of this position, numerous listings and sales of homes located in subject development were introduced into evidence.

The assessor contended that subject property should be valued at \$250,362. In support of this position, three comparable sales were introduced into evidence. Given the sales, Mr. Wilson recommended appraising subject property as an 01 improvement type rather than as an 03 improvement type.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$237,900. The administrative judge finds that the taxpayers' March 30, 2006 purchase of subject property should initially receive greatest weight. However, given a January 1, 2007 assessment date pursuant to Tenn. Code

Ann. § 67-5-504(a), the administrative judge finds that generally accepted appraisal practices require the sale be adjusted for time. The administrative judge finds that the preponderance of the evidence supports an adjustment of 3% between March 30, 2006 and January 1, 2007.

Respectfully, the administrative judge finds that the various sales and listings introduced by the parties cannot receive the weight they might otherwise receive for either of two reasons. First, the sales were not adjusted. The Assessment Appeals Commission explained the need to adjust comparables in the oft-cited case of *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) as follows:

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2. Second, the administrative judge finds that sales or listings occurring after January 1, 2007 are normally irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that “[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events.” Final Decision and Order at 3.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$23,600	\$214,300	\$237,900	\$59,475

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal “**must be**

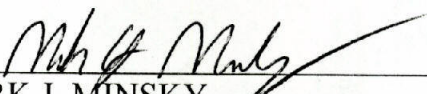
filed within thirty (30) days from the date the initial decision is sent.”

Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 21st day of September, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Robert J. Poirier
Ralph Barnwell, Assessor of Property